

Application No.: 10/580,727

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Docket No.: 60218(48497)

**REMARKS**

Claims 1 – 59 were pending. Claims 1, 2, 14 – 24, 27 – 29, and 31 - 50 have been cancelled. Claims 51 - 59 were withdrawn. New claims 60 and 61 were added. Claims 3 – 13 and 25, 26, and 30 have been amended. No new matter has been added by virtue of the amendments, support being found throughout the specification and the claims as originally filed. Particular support for the probe set of SEQ ID NO: 6, SEQ ID NO: 7 and SEQ ID NO: 8 can be found in Example 5 of the specification, beginning at page 28.

Any cancellation of the claims was done solely to expedite the prosecution of the application. Applicant reserves the right to pursue the claims as originally filed in this or a separate application(s).

In response to the Restriction Requirement set forth in the Office Action mailed May 19, 2009, applicant hereby elects Group II, claims 25 – 34, drawn to a PNA probe set comprising PNA probes for one or more *Staphylococcus* spp other than *S.aureus* and at least one probe for *S.aureus*, for examination.

The Examiner has also indicated that the application contains claims directed to more than one species of the generic invention. The Examiner indicates that the species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. The Examiner indicates that Applicant is required to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner indicates the species are as follows:

*S. epidermidis*, *S. hominis*, *S. haemolyticus*, *S.lugdunensis*, *S.saprophyticus*, *S.sciuri*, and *S.schleiferi*.

In response, Applicants select the species *S. epidermidis*. Claims 4 and 9 read on this species.

Applicants respectfully traverse the Restriction Requirement.

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The present invention is directed to **simultaneous analysis** of one or more of *Staphylococcus* species other than *S. aureus* such as but not limited to *Staphylococcus epidermidis*, *Staphylococcus haemolyticus*, *Staphylococcus hominis*, *Staphylococcus lugdenensis*, *Staphylococcus saprophyticus* and *Staphylococcus simulans*. The PNA probes may be part of a PNA probe set comprising either two or more PNA probes for analysis of **two or more** species of *Staphylococcus* species other than ***S. aureus***.

Applicants teach at page 28 - 29 of their present disclosure analysis of *Staphylococcus* species other than *S. aureus* by fluorescence in situ hybridization using the set of probe sequences as set forth in Table 5: CNS3 (Seq. ID. No. 6) Tamra-OO-TCC-TCG-TCT-GTT- CGC CNS4 (Seq. ID. No. 7) Tamra-OO-CTC-CTT-ATC-TGT-TCG-C CNS5 (Seq. ID. No. 8) Tamra-OO-CTC-CTT-GTC-TGT- TCG-C, and the complements thereof. Applicants evaluate the probe sets, and show that the probe set of SEQ ID NOs 6, 7 and 8 can detect a cohort of *Staphylococcus* species (see Table 5 on page 29).

Accordingly, Applicants request that the Examiner reconsider the Restriction Requirement and election of species as set forth in the Office Action.

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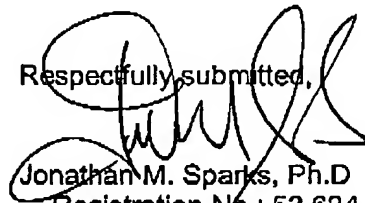
### CONCLUSION

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105, under Order No. 60218(48497).

Dated: September 18, 2009

Customer Number 21874

Respectfully submitted,



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